

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

MONICA BOGART

Plaintiff,

v.

**JOHN E. POTTER,
Postmaster General of the United States,**

Defendant.

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CASE NO. 7:07-CV-175-O

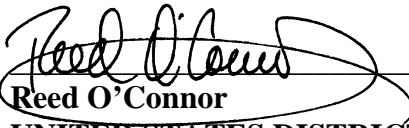
**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The Court has reviewed all relevant matters of record in this case, including the orders (ECF No. 84) of the United States Magistrate Judge and Plaintiff's objection (ECF No. 87), in accordance with 28 U.S.C. § 636(b). The Magistrate Judge granted Plaintiff's motion for leave to proceed in forma pauperis on appeal and denied Plaintiff's motion to appoint counsel for appeal.

Plaintiff objects to the Magistrate Judge's denial of her motion to appoint counsel. She argues that she will face substantial obstacles on appeal because of her lack of legal training. As the Magistrate Judge correctly observed, a *pro se* civil litigant has no automatic right to the appointment of counsel on appeal or otherwise. *Hulsey v. Texas*, 929 F.2d 168, 172 (5th Cir. 1991); *Freeze v. Griffith*, 849 F.2d 172, 175 (5th Cir. 1988); *Ulmer v. Chancellor*, 691 F.2d 209, 212 (5th Cir. 1982). Appointment of counsel is entirely discretionary, and on appeal it is unnecessary absent exceptional circumstances. *Hulsey*, 929 F.2d at 172-73. The Magistrate Judge analyzed Plaintiff's request under the factors laid out by the Fifth Circuit in *Ulmer v. Chancellor* and concluded that exceptional circumstances warranting the appointment of counsel did not exist.

The undersigned District Judge is of the opinion that the orders of the Magistrate Judge are correct and not clearly erroneous or contrary to law. Therefore, the orders of the Magistrate Judge granting Plaintiff's motion for leave to proceed *in forma pauperis* and denying Plaintiff's motion to appoint counsel are affirmed and are adopted as the findings and conclusions of this Court.

SO ORDERED on this **23rd** day of **July, 2010**.


Reed O'Connor
UNITED STATES DISTRICT JUDGE